

1 CHRISTENSEN JAMES & MARTIN
2 EVAN L. JAMES, ESQ. (7760)
3 DARYL E. MARTIN, ESQ. (6735)
4 7440 W. Sahara Avenue
5 Las Vegas, Nevada 89117
6 Telephone: (702) 255-1718
7 Facsimile: (702) 255-0871
Email: elj@cjmlv.com, dem@cjmlv.com
*Attorneys for Defendants Nevada Service Employees
Union, Luisa Blue, and Martin Manteca*

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JAVIER CABRERA, an individual;
DEBORAH MILLER, an individual,
CHERIE MANCINI, an individual;
NEVADA SERVICE EMPLOYEES
UNION STAFF UNION (“NSEUSU”),
an unincorporated association.

Plaintiffs,

vs.

SERVICE EMPLOYEES INTERNATIONAL UNION, a nonprofit cooperative corporation; LUISA BLUE, in her official capacity as Trustee of Local 1107; MARTIN MANTECA, in his official capacity as Deputy Trustee of Local 1107; MARY K. HENRY, in her official capacity as Union President; CLARK COUNTY PUBLIC EMPLOYEES ASSOCIATION dba NEVADA SERVICE EMPLOYEES UNION aka SEIU LOCAL 1107, a nonprofit cooperative corporation; CAROL NIETERS, an individual; DOES 1-20; and ROE CORPORATIONS 1-20, inclusive.

Defendants.

Case No.: 2:18-cv-00304-RFB-BNW

**REPLY TO RESPONSE FOR
MOTION FOR A NEW TRIAL
DATE**

(FIRST REQUEST)

1 Nevada Service Employees Union, SEIU 1107 (“Union”) and Luisa Blue
 2 (collectively “Movants”) hereby reply to Defendant Debby Miller’s Response to the
 3 Motion for a New Trial Date. ECF No. 263.

4 1. The standard for moving a trial is good cause.

5 “Good cause is a non-rigorous standard that has been construed broadly across
 6 procedural and statutory contexts.” *Ahanchian v. Xenon Pictures, Inc.*, 624 F.3d
 7 1253, 1259 (9th Cir. 2010) (internal quotation marks omitted). A scheduling order
 8 “may be modified only for good cause and with the judge’s consent.” Fed. R. Civ. P.
 9 16(b)(4). “The district court is given broad discretion in supervising the pretrial
 10 phase of litigation[.]” *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 607 (9th
 11 Cir. 1992) (citation omitted). “Rule 16(b)’s ‘good cause’ standard primarily
 12 considers the diligence of the party seeking the amendment.” *Id.* at 609.

13 2. Movants have been diligent.

14 Movant’s have been diligent. They have a history of seeking a trial date as
 15 timely as possible as shown by their court filings. See e.g., ECF Nos. 228, 240, 256,
 16 258, 259, and 260. They have not delayed and have promoted a trial date at the
 17 Court’s earliest convenience. They sought a stipulation from Plaintiff Debbie Miller
 18 to continue the current trial date, explaining the need for a continuance. Miller
 19 refused, not because Movant’s did not explain their need, but because she is upset
 20 that it has taken so long for the trial to occur. Movants filed the motion to continue
 21 months in advance so that no one is surprised. The Movant’s have been forthright
 22 and open with everyone.

23 3. Prescheduled conflicts are good cause for continuing a trial date, and
 24 requiring the posting of detailed plans in a public document is unwise.

25 Miller was told why Blue has a conflict. Rather than accept that discrete
 26 explanation, Miller demands the posting of detailed plans in a public document. It is
 27 sufficient good cause to continue trial if there are prescheduled conflicts. See

1 *Alexander v. Wal-Mart Stores, Inc.*, 2:11-CV-752 JCM (PAL), 2012 U.S. Dist.
2 LEXIS 129615, *2 (D. Nev. 2012) (stating that a prescheduled conflict of the
3 attorney constitutes good cause.) Plaintiff Miller dragged Defendant Blue into this
4 lawsuit. It is unreasonable to expect a defendant dragged into a lawsuit to not plan a
5 life and sit around waiting for a trial date. In general, Blue will not be in the United
6 States during the scheduled trial period. Neither will witness Vergara-Mactal.
7 Information beyond that should be unnecessary as it will not change their
8 unavailability.

9 While Movants also want this matter closed, the fact remains that Defendant
10 Blue and witness Vergara-Mactal have pre-purchased trips scheduled outside the
11 United States. They will not be here for trial. Blue's lack of presence, in particular,
12 impacts Miller's ability to address some of her claims. Miller must understand that
13 Blue will not be present for trial if the current trial date is kept.

14 A short continuance of the trial is more than proper, it is justified.

15 | Dated this July 3, 2023.

CHRISTENSEN JAMES & MARTIN

By: /s/ Evan L. James
Evan L. James, Esq.
Nevada Bar No. 7760
7440 W. Sahara Avenue
Las Vegas, NV 89117
Tel.: (702) 255-1718
Fax: (702) 255-0871
elj@cjmlv.com
*Attorneys for Local 1107,
Luisa Blue, and Martin Manteca*

CERTIFICATE OF SERVICE

I am an employee of Christensen James & Martin and caused a true and correct copy of the foregoing document to be served in the following manner on the date it was filed with the Court's ECF System.

ELECTRONIC SERVICE: Through the Court's E-Filing System to the following:

VIA UNITED STATES MAIL:

Michael J. Mcavoyamaya, Esq.
4539 Paseo Del Ray
Las Vegas, NV 89121

mike@mrlawlv.com

Glenn Rothner, Esq.
Eli Naduris-Weissman, Esq.
Carlos Coye, Esq.
Rothner, Segall & Greenstone
510 South Marengo Avenue
Pasadena, California 91101-3115

grothner@rsglabor.com
enaduris-weissman@rsglabor.com
ccoye@rsglabor.com

CHRISTENSEN JAMES & MARTIN

By: /s/ Evan L. James
Evan L. James